

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

JOHN C. GREGA,
 Petitioner

v.

ROBERT HOFMANN, Commissioner,
Vermont Department of Corrections,
 Respondent

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File No. 1:04-CV-02

ORDER

The Magistrate Judge's Report and Recommendation was filed August 1, 2007. (Paper 125.) After de novo review and over objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

The Court notes the petitioner's Objection to the Report and Recommendation and his Unopposed Motion for 45 Days to Submit Supplemental Memorandum, if the Court deems such is necessary. (Papers 127 and 128.) The Court does not require additional memoranda and, accordingly, finds the motion (Paper 128) moot.

The amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Paper 62) is DENIED. The petitioner's motions to dismiss two of his claims (Papers 117 and 118) are GRANTED. This case is hereby DISMISSED.

Pursuant to Fed. R. App. P. 22(b), the Court DENIES petitioner a certificate of appealability ("COA") because the petitioner failed to make a substantial showing of a denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). Further, the

petitioner has failed to demonstrate that reasonable jurists would find the Court's "assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 120 S. Ct. 1595, 1603-04, 146 L.Ed.2d 542 (2000).

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(e)(2)(B)(i).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 23rd day of August, 2007.

/s/ J. Garvan Murtha

J. Garvan Murtha
United States District Judge